CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

April 28, 2008

H.R. 5579
Emergency Mortgage Loan Modification Act of 2008

As ordered reported by the House Committee on Financial Services on April 23, 2008

H.R. 5579 would protect mortgage servicers from legal liability if they perform loan modifications according to specific criteria established under the legislation. CBO estimates that enacting this legislation would have no significant impact on the federal budget and would not affect direct spending or revenues.

Residential mortgages are often pooled together and sold to investors as securities. The pools of loans are overseen by mortgage servicers, who have a fiduciary responsibility to maximize returns to the investors. Many pooling and servicing agreements give servicers authority to modify the terms of securitized loans if that action is in the interest of maximizing the value of the loan pool, but some agreements are more restrictive. Pooling and servicing agreements can be amended with the consent of investors. However, not all investors in mortgage-backed securities share losses equally, which may limit servicers' ability to obtain permission to modify the terms of loans to ensure maximum value for all investors. H.R. 5579 would provide legal protection for servicers of mortgage pools when they modify mortgages.

H.R. 5579 contains both intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA), but CBO estimates that the costs of those mandates would not exceed the annual thresholds for intergovernmental or private-sector mandates established in UMRA ($68 million and $136 million, respectively, in 2008, adjusted annually for inflation). By preventing investors, both public and private, from seeking damages on grounds that the servicing agreement had been violated, the legislation would impose a mandate on governmental and private-sector entities that invest in pooled residential mortgages. CBO concludes, however, that servicers would be unlikely to alter mortgages in ways that would be significant enough to cause investors to seek damages because they would still be required to ensure the greatest return to investors under their fiduciary obligations.

The CBO staff contact for this estimate is Susanne S. Mehlman. This estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.